

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION

ANDREW GONZALES §  
VS. § CIVIL ACTION NO. 9:20cv131  
PAUL REILLEY, ET AL. §

**MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING  
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff Andrew Gonzales, an inmate formerly at the Polunsky Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, brought the above-styled lawsuit.

The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends granting the defendants' motion for summary judgment. Additionally, the magistrate judge recommends declining the exercise of supplemental jurisdiction.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record and pleadings. Plaintiff filed objections to the Magistrate Judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. *See FED. R. CIV. P. 72(b)*.

After careful consideration, the court concludes plaintiff's objections are without merit. Plaintiff objects that his motions for discovery were not granted. The defendants, however, asserted the defense of qualified immunity. It is well settled that the issue of a qualified immunity defense should be decided before traditional discovery proceeds in a case. *See Hunter v. Bryant*, 502 U.S.

224, 227 (1991) (noting that “we repeatedly have stressed the importance of resolving immunity questions at the earliest possible stage in litigation”). Generally, discovery should not proceed before a ruling on a dispositive motion to decide qualified immunity. *See Ashcroft v. Iqbal*, 556 U.S. 662, 685-86 (2009).

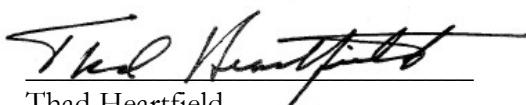
For the reasons set forth in the Report, the competent summary judgment evidence shows plaintiff’s claims against the defendants fail to rise to the level of a constitutional violation, plaintiff’s remaining claims fail to state a claim upon which relief may be granted, and the defendants are entitled to qualified immunity. Accordingly, plaintiff’s complaint should be dismissed with prejudice and the exercise of supplemental jurisdiction should be declined.

O R D E R

Accordingly, plaintiff’s objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is **ADOPTED**. It is

**ORDERED** that the defendants’ motion for summary judgment is **GRANTED**. Additionally, the exercise of supplemental jurisdiction is **DECLINED**. A final judgment will be entered in this case in accordance with the Magistrate Judge’s recommendations.

**SIGNED** this the 15 day of **March, 2022**.



Thad Heartfield  
United States District Judge